

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 14

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte RALPH L. PICCININO, JR. and KEVIN H. BLAKLEY

Appeal No. 2001-0912
Application No. 09/082,957

ON BRIEF

Before KIMLIN, GARRIS, and DELMENDO, Administrative Patent Judges.

GARRIS, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on an appeal from the refusal of the examiner to allow claims 1, 2, 4, 9, 10, 22, 24, 27 and 29 as amended subsequent to the final rejection. The only other claims remaining in the application, which are claims 5, 25 and 28, stand objected to by the examiner but otherwise allowable.

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The subject matter on appeal relates to a method of applying a solution to photosensitive material. With reference to figure 1 of the appellants' drawing, the method includes use of a solution supply guide member 21 in conjunction with first and second metering rollers 15, 17 which are oriented such that a center line that connects the centers of rotation of these rollers forms a predetermined angle with a horizontal line. As material 7 advances between these rollers, solution 6 is applied to guide member 21 which extends toward the nip portion between the first and second rollers. A first feed of solution 6A is formed above the guide member and extends between the guide member and upper roller 15. A second feed of solution 6B is formed in the vicinity of the nip portion and extends below the guide member and between the guide member and lower roller 17. Via this arrangement, as the photosensitive material is conveyed toward the nip portion, solution is applied to a surface of the material. This appealed subject matter is adequately illustrated by claims 1, 2 and 4 which read as follows:

1. A method of applying at least one solution of a predetermined viscosity to photosensitive material, the method comprising the steps of:

providing a solution supply guide member at a position relative to a first metering roller and a second roller such that one end of said guide member extends toward a nip portion between said first and second rollers, said first and second rollers are oriented such that a center line which connects a center of rotation of said first roller to a center of rotation of said second roller, forms a predetermined angle with a horizontal line such that a bead of a processing solution can be formed in the vicinity of a nip portion between said first and second rollers;

supplying a solution of a predetermined viscosity onto said guide member so that said solution flows along said guide member and is guided toward said nip portion between said first and second rollers, so as to form at least one metered bead of said solution; and

conveying a photosensitive material toward said nip portion, such that said solution is applied to a surface of said photosensitive material.

2. A method according to claim 1, wherein:

said step of supplying a solution of a predetermined viscosity onto said guide member permits a formation of said at least one bead and a further bead;

one of said at least one bead and said further bead is formed above said guide member and extends between said guide member and an upper roller of said first and second rollers;

the other of said at least one bead and said further bead is formed in a vicinity of said nip portion and extends below the guide member and between said guide member and a lower roller of said first and second rollers; and

said photosensitive material is conveyed into said other of said at least one bead and said further bead.

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4. A method according to claim 1, wherein said predetermined angle is approximately 30 degrees.

The reference set forth below is relied upon in the Section 102 and Section 103 rejections before us:

Urasaki et al. (Urasaki)	5,839,011	Nov. 17, 1998
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Claims 1, 2, 9, 10, 22, 27 and 29 are rejected under 35 U.S.C. § 102(e) as being anticipated by Urasaki.

Claims 4 and 24 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Urasaki.

The appealed claims have been separately grouped and argued in the manner indicated on page 2 of the brief. In assessing the merits of the rejections advanced on this appeal, we have individually considered the claims which have been separately grouped and argued by the appellants.

Rather than reiterate the respective positions advocated by the appellants and by the examiner concerning the above noted rejections, we refer to the brief and to the reply brief and to the answer for a complete exposition thereof.

OPINION

Having carefully studied the record before us, we determine that the Section 102 rejection should be sustained but that the Section 103 rejection should not be sustained.

The Section 102 Rejection

It is axiomatic that, during examination proceedings, claims are to be given their broadest reasonable interpretation consistent with the specification. In re Hyatt, 211 F.3d 1367, 1372, 54 USPQ2d 1664, 1667 (Fed. Cir. 2000).

With this principle in mind, we fully share the examiner's finding that the here rejected claims are anticipated by Urasaki. Indeed, in light of the well articulated and thoroughly detailed findings of fact and rebuttals to argument presented by the examiner in her answer, we will adopt these findings and rebuttals as our own. We add the following comments merely for emphasis.

On pages 1 and 2 of the reply brief, the appellants acknowledge that Urasaki discloses (e.g., see lines 49-58 in column 7) a puddle of solution is formed in the nip portion between patentee's figure 4 rollers. According to the appellants, however, "the stated puddles are not the same as

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claimed in the present invention" because "[f]igs. 1 and 3 of the present invention illustrates [sic] that the processing solution will remain in the nip of the two rollers even when the rollers are not being rotated" whereas "any retaining of processing solution in the nip [of Urasaki] must occur as a result of the rotation of the rollers and liquid having the appropriate viscosity" (reply brief, page 1). This argument cannot be considered persuasive.

As previously indicated, the appealed claims must be given their broadest reasonable interpretation consistent with the specification. Hyatt, id. For this reason and because the claims under review contain no recitation concerning when and under what circumstances solution must remain in the nip portion, the appellants' above noted argument is necessarily unconvincing since it is considerably more narrow than the claims to which it is directed.

For the reasons set forth above and in the answer, we hereby sustain the examiner's Section 102(e) rejection of claims 1, 2, 9, 10, 22, 27 and 29 as being anticipated by Urasaki.

The Section 103 Rejection

As recognized by the examiner, here rejected claims 4 and 24 require that the predetermined angle (i.e., the predetermined angle defined in parent claims 1 and 22 as formed by the center line which connects the centers of rotation of the first and second rollers with a horizontal line) "is approximately 30 degrees" whereas the corresponding angle of Urasaki's figure 4 arrangement is approximately 90 degrees. Nevertheless, the examiner concludes that

it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Urasaki to use a 30 degree angle of the centerline between the rollers with an expectation of similar results, because as shown by figure 5 and column 8, lines 40-55 of Urasaki, Urasaki contemplates also using a guide member device with the roller placed at an angle to the vertical, and one of ordinary skill in the art would perform routine experimentation to determine the optimum placement of the rollers. [Answer, page 6.]

We do not agree with the examiner's conclusion.

As indicated above, the predetermined angle under consideration depends upon the disposition (i.e., ranging from vertical to horizontal) of the center line which connects the centers of rotation of the first and second rollers. In the

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figure 4 arrangement of Urasaki, this center line would be vertical thus forming a predetermined angle of 90 degrees. Contrary to the examiner's position, the figure 5 arrangement of Urasaki would not have suggested modifying the center line disposition of patentee's figure 4 arrangement. This is because the figure 5 arrangement includes only one roller and therefore does not even possess a center line much less show a center line disposition which would have suggested modifying the vertical disposition in patentee's figure 4 arrangement.

For the above stated reasons, we cannot sustain the examiner's Section 103 rejection of claims 4 and 24 as being unpatentable over Urasaki.

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Summary

The decision of the examiner is affirmed-in-part.

No time period for taking any subsequent action in
connection with this appeal may be extended under 37 CFR
§ 1.136(a).

AFFIRMED-IN-PART

EDWARD C. KIMLIN)	
Administrative Patent Judge)	
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BRADLEY R. GARRIS)	BOARD OF PATENT
Administrative Patent Judge)	APPEALS AND
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BRG:hh

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